

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9 **BEFORE THE**
10 **CALIFORNIA BOARD OF ACCOUNTANCY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 JOHNATHON MARK ROUX
4934 Pathway Court
14 Fair Oaks, CA 95628

15 Certified Public Accountant Certificate No.
43139

16
17 Respondent.

Case No. AC-2007-22

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18 FINDINGS OF FACT

19 1. On or about January 9, 2007, Complainant Carol Sigmann, in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs, filed Accusation No. AC-2007-22 against Johnathon Mark Roux
22 (Respondent) before the California Board of Accountancy.

23 2. On or about June 7, 1985, the California Board of Accountancy (Board)
24 issued Accountant Certificate No. 43139 to Respondent. The Accountant Certificate was in full
25 force and effect at all times relevant to the charges brought herein and will expire on January 31,
26 2008, unless renewed.

27 ///

28 ///

1 3. On or about January 16, 2007, Carol L Sekara, an employee of the
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
3 AC-2007-22, Statement to Respondent, Notice of Defense, Request for Discovery, and
4 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
5 with the Board, which was and is 4934 Pathway Court, Fair Oaks, CA 95628. A copy of the
6 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are
7 incorporated herein by reference. Further, on March 8, 2007, Mary Anne Snyder an employee of
8 the Department of Justice, served by Certified and First Class Mail another copy of the
9 Accusation No. AC-2007-22, Statement to Respondent, Notice of Defense, Request for
10 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to an additional
11 address for Respondent, 6115 Main Avenue, #15, Orangevale, CA 95662. A copy of the
12 Declaration of Service for said additional service is also attached as part of exhibit A, and is
13 incorporated herein by reference.

14 4. Service of the Accusation was effective as a matter of law under the
15 provisions of Government Code section 11505, subdivision (c).

16 5. On or about January 23, 2007, the signed Domestic Return Receipt from
17 the January 16, 2007 service was received by the Department of Justice. Nothing has been
18 returned from the second mailing of service. A copy of the returned Domestic Return Receipt is
19 attached hereto as exhibit B, and are incorporated herein by reference.

20 6. Government Code section 11506 states, in pertinent part:

21 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
23 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
24 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

25 7. Respondent failed to file a Notice of Defense within 15 days after service
26 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
27 Accusation No. AC-2007-22.

28 ///

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation No. AC-2007-22 are true.

10. The total costs for investigation and enforcement are \$3,610.70 as of March 30, 2007.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Johnathon Mark Roux has subjected his Accountant Certificate No. 43139 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Accountancy is authorized to revoke Respondent's Accountant Certificate based upon the violations alleged in Accusation No. AC-2007-22:

///

///

///

///

///

///

///

///

///

1 ORDER

2 IT IS SO ORDERED that Accountant Certificate No. 43139, heretofore issued to
3 Respondent Johnathon Mark Roux, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
8 statute.

9 This Decision shall become effective on June 17, 2007.

10 It is so ORDERED May 18, 2007

11
12 
13 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
14 DEPARTMENT OF CONSUMER AFFAIRS

15 Attachments:

16 Exhibit A: Accusation No.AC-2007-22, Related Documents, and Declaration of Service
17 Exhibit B: Domestic Return Receipt
18 Exhibit C: Certificate of Costs - Declaration of Carol Sigmann

19 DOJ docket number:03541110-SA2006103405
20 Roux Default.wpd
21
22
23
24
25
26
27
28

Exhibit A

Accusation No. AC-2007-22,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9
10 **BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. AC-2007-22

13 JOHNATHON MARK ROUX
4934 Pathway Court
14 Fair Oaks, CA 95628

A C C U S A T I O N

15 Certified Public Accountant Certificate No.
43139

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the California Board of Accountancy, Department of
22 Consumer Affairs.

23 2. On or about June 7, 1985, the California Board of Accountancy issued
24 Certified Public Accountant Certificate Number 43139 to Johnathon Mark Roux (Respondent).
25 The Certified Public Accountant Certificate will expire on January 31, 2008, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the California Board of Accountancy
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 5050 states:

3 "No person shall engage in the practice of public accountancy in this State unless
4 such person is the holder of a valid permit to practice public accountancy issued by the board;
5 provided, however, that nothing in this chapter shall prohibit a certified public accountant or a
6 public accountant of another state, or any accountant of a foreign country lawfully practicing
7 therein, from temporarily practicing in this State on professional business incident to his regular
8 practice in another state or country."

9 5. Section 5060 states:

10 "(a) No person or firm may practice public accountancy under any name which is
11 false or misleading.

12 "(b) No person or firm may practice public accountancy under any name other
13 than the name under which the person or firm holds a valid permit to practice issued by the
14 board.

15 "(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name
16 other than the name set forth on his or her permit to practice, provided the name is registered by
17 the board, is in good standing, and complies with the requirements of subdivision (a).

18 "(d) The board may adopt regulations to implement, interpret, and make specific
19 the provisions of this section including, but not limited to, regulations designating particular
20 forms of names as being false or misleading."

21 6. Section 5100 states in pertinent part:

22 "After notice and hearing the board may revoke, suspend or refuse to renew any
23 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
24 (commencing with Section 5080), or may censure the holder of that permit or certificate for
25 unprofessional conduct which includes, but is not limited to, one or any combination of the
26 following causes:

27 "(b) A violation of Section 478, 498, or 499 dealing with false statements or
28 omissions in the application for a license, or in obtaining a certificate as a certified public

1 accountant or in obtaining registration under this chapter or in obtaining a permit to practice
2 public accountancy under this chapter.”...

3 “(g) Willful violation of this chapter or any rule or regulation promulgated by the
4 board under the authority granted under this chapter.”

5 7. Section 118, subdivision (b), of the Code provides that the suspension,
6 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
7 proceed with a disciplinary action during the period within which the license may be renewed,
8 restored, reissued or reinstated.

9 8. Section 5107 of the Code provides, “(a) The executive officer of the board
10 may request the administrative law judge, as part of the proposed decision in a disciplinary
11 proceeding, to direct any holder of a permit or certificate found to have committed a violation or
12 violations of this chapter to pay the board all reasonable costs of investigation and prosecution of
13 the case, including, but not limited to, attorneys’ fees. The board shall not recover costs incurred
14 at the administrative hearing.”

15 9. Title 16 California Code of Regulations Section 87 states in pertinent part:
16 “As a condition of active status license renewal, a licensee shall complete at least 80 hours of
17 qualified continuing education as described in section 88 in the two- year period immediately
18 preceding license expiration and meet the reporting requirements set forth in subsection (a) of
19 section 89.”

20 10. Title 16 California Code of Regulations Section 88(d) states in pertinent
21 part that the credit as instructor will be allowed for any program or meeting providing that the
22 session is one that would meet the continuing education requirements set forth in section 88(a),
23 section 88.1, and section 88.2.”

24 11. Title 16 California Code of Regulations Section 89 provides in pertinent
25 part: “(a) Upon renewal, a licensee who is required, pursuant to section 87, to obtain continuing
26 education must provide a written statement, signed under penalty of perjury, certifying that the
27 requisite number of continuing education hours has been obtained.”...

28 ///

1 “(d) If continuing education credit is claimed for completing a self-study course, the
2 licensee shall obtain and retain for four years after renewal a certificate of completion of its
3 equivalent disclosing the following information:

4 (1) Name of licensee taking the course

5 (2) School, firm, or organization providing the course

6 (3) Title of course or description of contents

7 (4) Date of completion

8 (5) Number of hours of continued education credit granted for completing the course”

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Practice under an Expired License)

11 12. Respondent is subject to disciplinary action under section 5050 in that
12 between the dates of February 1, 2006 and August 26, 2006 he practiced as a Certified Public
13 Accountant without a valid license.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Use of an Unregistered Firm Name)

16 13. Respondent is subject to disciplinary action under section 5060 in that on
17 or about April of 2006, he did business as Lindsey, Roux & Company, a name that is not
18 registered with the Board.

19 **THIRD CAUSE FOR DISCIPLINE**

20 (Submitting False Information to the Board)

21 14. Respondent is subject to disciplinary action under sections 5100(b),
22 5100(g), 498, and Title 16 California Code of Regulations Sections 87,88, and 89 in that
23 he falsely certified to the Board the following:

24 a. That he completed 70 hours of continuing education in December 2005
25 and January 2006, when in fact he completed the hours in August 2006, after his renewal date;

26 b. That he had completed three hours of teaching for “Staff Training–Tax
27 Software” as completed on January 9, 2006 without providing any documentary support for said
28 claim;

1 c. That he had completed 24 hours of "FASB, SSARS, & SAS" when he
2 had actually completed only 8 hours;

3 d. That he had completed 8 hours of continuing education for a course
4 entitled "How to Organize & Run a Small Business" when he had only completed 6 hours.

5 PRAYER

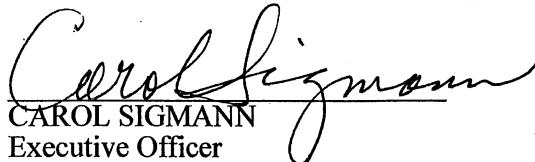
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

8 1. Revoking or suspending Accountant Certificate Number 43139, issued to
9 Johnathon Mark Roux;

10 2. Ordering Johnathon Mark Roux to pay the California Board of
11 Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 5107;

13 3. Taking such other and further action as deemed necessary and proper.
14
15

16 DATED: January 9, 2007
17

18 
19

20 CAROL SIGMANN
21 Executive Officer
22 California Board of Accountancy
23 Department of Consumer Affairs
24 State of California
25 Complainant
26
27
28

03541110-SA2006103405
Roux accusation.wpd
kdh:12/22/06